

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA**

RICHARD FELTZ, on behalf of himself and  
others similarly situated,

Plaintiffs,

v.

BOARD OF COUNTY COMMISSIONERS  
OF TULSA COUNTY, et al.,

Defendants.

Case No. 18-cv-0298-CVE-JFJ

---

**MOTION FOR LEAVE TO FILE SUPPLEMENTAL BRIEF IN RESPONSE TO STATE  
JUDGES' NOTICE OF SUPPLEMENTAL AUTHORITY**

Defendant State Judges filed a “notice of supplemental authority”<sup>1</sup> to alert this Court to the recently issued opinion in *Daves v. Dallas County*, \_\_\_ F.3d \_\_\_, 2020 W.L. 2020 WL 7693744 (5th Cir. December 28, 2020), contending that *Daves* is relevant to their motions at docket number 104 and 157.<sup>2</sup> The State Judges do not say which arguments they believe to be affected by *Daves* or how they believe *Daves* to affect those arguments. But there is no question that *Daves* says nothing about Plaintiffs’ primary response to the State Judges’ motion to dismiss: That the issues raised in that motion may not be addressed on a motion to dismiss but instead must await the close of discovery and full briefing on summary judgment. *See* Response, Dkt. No. 173 at 6–8, 21. The Court has previously indicated its agreement with that argument. *See* Order Denying Request for Temporary Restraining Order, Dkt. No. 191 at 25 (“The Court lacks a full record, and the affidavits, declarations, evidence, and arguments are vastly conflicting. Therefore, it would be imprudent for the Court to decide the constitutionality of the bail system at this time.”). Because the record before the Court is no clearer today than it was when the Court concluded that “it would be imprudent for the Court to decide” many of the issues raised in the State Judges’ motions, Plaintiffs respectfully request that the question of *Daves*’s applicability to those issues be briefed on summary judgment. If the Court intends to decide the State Judges’ pending motions to dismiss before the close of discovery and submission of dispositive motions for summary judgment, Plaintiffs respectfully request the opportunity to submit further briefing on *Daves*; but if the Court

---

<sup>1</sup> This Court’s local rules do not appear to provide for a notice of supplemental authority. Local Rule 7.2(h) requires leave of court before a party may file a supplemental *brief*, but does not address the question of a supplemental notice. Although Plaintiffs have no procedural objection to the State Judges’ notice, Plaintiffs nonetheless seek leave to file this response as a supplemental brief out of an abundance of caution. The State Judges oppose Plaintiffs’ motion for leave to file a response to their notice of supplemental authority. The Sheriff and County Commissioners take no position on the motion.

<sup>2</sup> The State Judges contend that *Daves* is relevant to their motion at docket number 173. This docket number shows Plaintiffs’ response to the State Judges motion at docket number 157.

intends to wait until summary judgment to resolve these issues, Plaintiffs do not intend to further respond to the State Judges' notice of supplemental authority.

Dated: January 22, 2021

Respectfully submitted,

/s/ Hayley Horowitz  
Hayley Horowitz  
Phoebe Kasdin  
STILL SHE RISES, TULSA  
567 E. 36th Street North  
Tulsa, OK 74106  
hayleyh@stillsherises.org  
(918) 392-0867

Charles Gerstein\*  
Alexandria Twinem\*  
Ryan Downer\*  
CIVIL RIGHTS CORPS  
1601 Connecticut Avenue NW  
Suite 800  
Washington, DC 20009  
charlie@civilrightscorps.org  
alexandria@civilrightscorps.org  
ryan@civilrightscorps.org  
(202) 844-4975

Allison Holt Ryan\*  
Michelle Kisloff\*  
Stevie DeGroff\*  
HOGAN LOVELLS US LLP  
555 Thirteenth Street, NW  
Washington, DC 20004  
allison.holt-ryan@hoganlovells.com  
michelle.kisloff@hoganlovells.com  
stevie.degroff@hoganlovells.com  
(202) 637-5600

Vassi Iliadis\*  
HOGAN LOVELLS US LLP  
1999 Avenue of the Arts, Suite 1400  
Los Angeles, CA 90067

vassi.iliadis@hoganlovells.com  
(310) 785-4600

Gary L. Yeung\*  
HOGAN LOVELLS US LLP  
390 Madison Avenue  
New York, NY 10017  
(212) 918-3000  
gary.yeung@hoganlovells.com

*Attorneys for Plaintiffs*

*\*Admitted to practice pro hac vice*

**CERTIFICATE OF SERVICE**

I hereby certify that on this 22nd day of January 2021, I electronically transmitted the foregoing document to the Clerk of Court using the ECF System for filing. I further certify that a true and correct copy of the foregoing document was sent via the Court's ECF System to all registered parties.

/s/ Hayley Horowitz  
Hayley Horowitz